

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DENNIS HOWARD

PLAINTIFF

V.

CIVIL ACTION NO. 3:21-CV-323-KHJ-MTP

BARRY RULE, ET AL.

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge Michael T. Parker. [12]. The Report recommends that the Court dismiss Plaintiff Dennis Howard's Complaint [1] without prejudice. [12] at 3. Written objections to the Report were due by November 3, 2021. The Report notified the parties that failure to file written objections to the findings and recommendations by that date would bar further appeal in accordance with *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).¹ [12] at 3.

When no party has objected to a magistrate judge's report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court applies the "clearly erroneous, abuse of discretion and

¹ The Court recognizes that *Douglass* was superseded by statute on other grounds. *See* 28 U.S.C. § 636.

contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Howard filed this action in the United States District Court for the Northern District of Mississippi on March 26, 2021, proceeding pro se, but not in forma pauperis. [12] at 1; [1]. On May 12, 2021, that Court transferred the case to this Court. *See* Order [6]. On June 4, 2021, the Clerk of Court notified Howard that he was responsible for service of process pursuant to Rule 4 of the Federal Rules of Civil Procedure. *See* Memorandum [9]. The Clerk provided materials and instructions for compliance with Rule 4 and instructed Howard that failure to comply could result in dismissal of his case. *Id.* Howard did not comply. On September 27, 2021, the Court directed Howard to either, (1) show cause for why this case should not be dismissed for failure to serve process, or (2) file proof of service on or before October 12, 2021. Order to Show Cause [11]. Howard has not responded to the Order, nor has he filed proof of service. The Magistrate Judge recommends that the Court dismiss this action without prejudice for Howard’s failure to comply with Rule 4. The Court finds that the Report and Recommendation is neither clearly erroneous nor contrary to law and should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Report and Recommendation [12] of United States Magistrate Judge Michael T. Parker, entered in this cause should be, and the same is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that Plaintiff Howard's Complaint [1] is dismissed, Howard's Motion for Status [10] is DENIED as moot, and this case is DISMISSED WITHOUT PREJUDICE.

A separate Final Judgment will issue this day.

SO ORDERED, this the 22nd day of November, 2021.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE